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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/684,163	10/04/00	TRAUTMAN	J ARC 2685N1

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HM12/1002

EXAMINER

WILLIAMSON, M

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 10/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/684,163

Applicant(s)

TRAUTMAN et al

Examiner

Williamson

Group Art Unit

1666

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on filed on after 10/4/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 36-55 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 36-55 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Pending Claims***

The pending claims in the instant application are 36-55. The independent claims are 36 and 45.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 36-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerstel et al. (U.S. Patent 3,964,482).

Gerstel et al. discloses a an applicator having a plurality of skin piercing microprotrusions, a head and a surface having any desirable shape since the body is molded or a laminate wherein the structure has the same structural limitations of the instant claimed invention (see Abstract, Fig. 1-7 and col. 9, line 42 to col. 16, line 3). A change in shape without a change in function does not impart patentability.

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*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 36-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerstel et al.

Gerstel et al. discloses a an applicator having a plurality of skin piercing microprotrusions, a head and a surface wherein the structure has the same structural limitations of the instant claimed invention (see Abstract, Fig. 1-7 and col. 9, line 42 to col. 16, line 3). Gerstel et al. does not disclose that the application has a shape other than square.

Gerstel et al. does disclose that the application is molded or laminated therefore having any desirable shape since the body is molded or a laminate (see col. 9, line 42 to col. 10, line 13). Therefore, it would obvious to one of ordinary skill in the art to use the combined teachings of Gerstel et al. to make an application having any shape including that of the instant claimed invention since the applicator is molded or a

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lamine in the absence of a factual showing to the contrary or a showing of unexpected results.

5.

### **Crystal Mall 1 Facsimile Center**

A facsimile center has been established in Crystal Mall 1, room 7C10. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 308-4556. The new location should be used in all instances when faxing any correspondence to Group 1600. Use of the new Crystal Mall 1 center will facilitate rapid delivery of materials to the Group. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989).

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Michael A. Williamson whose telephone number is (703) 308-1235.



Michael A. Williamson  
Patent Examiner  
Group 1610

Williamson010928  
October 1, 2001